

**Wayne Systems, Inc. and Teamsters Local Union  
No. 115, a/w International Brotherhood of  
Teamsters, AFL-CIO. Case 4-CA-20617**

January 28, 1993

**DECISION AND ORDER**

BY MEMBERS DEVANEY, OVIATT, AND  
RAUDABAUGH

Upon a charge filed by the Union on April 7, 1992 (amended July 8, 1992), the General Counsel of the National Labor Relations Board issued a complaint against Wayne Systems, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On December 28, 1992, the General Counsel filed a Motion for Summary Judgment. On December 30, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all the allegations in the complaint shall be considered to be admitted to be true and shall be so found by the Board." By letter dated September 29, 1992, Respondent's attorney notified the Regional Director that the Respondent would not file an answer because it had closed its operations and ceased doing business. To date, no answer has been filed by the Respondent.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

The Respondent, a Pennsylvania corporation with a place of business in Valley Stream, New York, has been engaged in the interstate and intrastate transportation of freight. During the year preceding issuance of the complaint, a representative period, the Respondent, in the course and conduct of its business operations,

derived gross revenues in excess of \$50,000 from the interstate transportation of freight. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

Since at least November 11, 1991, and at all material times, the Union has been the designated exclusive collective-bargaining representative of the Respondent's employees in the following appropriate unit:

All full-time and regular part-time drivers and warehousemen employed by Respondent at its 701 Ashland Avenue, Folcroft, Pennsylvania location, excluding all other employees, guards and supervisors as defined in the Act.

At all times since at least November 11, 1991, the Union has been the exclusive collective-bargaining representative of the unit employees by virtue of Section 9(a) of the Act.

Sometime in or about February or March 1992, the Respondent's Station Manager, William Philips,<sup>1</sup> interrogated an employee concerning the employee's union activity, and threatened to discharge employees if they did not withdraw their support from the Union. We find that by engaging in the above conduct, the Respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed them by Section 7 of the Act, and has violated Section 8(a)(1) of the Act, as alleged.

On or about April 7, 1992, the Respondent refused to meet with the Union to negotiate a collective-bargaining agreement unless the Union removed two of its designated representatives from the meeting. On or about April 17, 1992, the Union orally requested that the Respondent bargain with it concerning a collective-bargaining agreement for unit employees, and since on or about the same date, the Respondent has failed and refused to do so. Further, on or about May 11, 1992, the Union requested, in writing, that the Respondent bargain with it about the effects on unit employees of the loss of the Respondent's contract to provide freight delivery services from its Folcroft, Pennsylvania facility, which is a mandatory subject of bargaining, and since or about the same date, the Respondent has failed and refused to do so. By engaging in the above conduct, we find that the Respondent has failed and refused and is failing and refusing to bargain collectively with the Union which represents its unit employees, and has violated Section 8(a)(5) and (1) of the Act, as alleged.

<sup>1</sup> The complaint alleges and we find that Phillips is a supervisor and agent of the Respondent within the meaning of Sec. 2(11) and (13) of the Act.

## CONCLUSIONS OF LAW

1. By interrogating an employee about the employee's union activity and by threatening to discharge employees if they did not withdraw their support from the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

2. By refusing to meet with the Union to negotiate an agreement unless the Union removed two of its designated representatives from the meeting, by failing and refusing to bargain with the Union over the terms of a collective bargain agreement for unit employees, and by failing and refusing to bargain with the Union about the effects on unit employees of the loss of its contract to provide freight delivery services from its Folcroft, Pennsylvania facility, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent shall be ordered to bargain collectively and in good faith with the Union over the terms of a collective-bargaining agreement covering unit employees, and to bargain with the Union over the effects on unit employees of the loss of its contract to provide freight delivery services from its Folcroft, Pennsylvania facility.

## ORDER

The National Labor Relations Board orders that the Respondent, Wayne Systems, Inc., Valley Stream, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively with Teamsters Local Union No. 115, a/w International Brotherhood of Teamsters, AFL-CIO, which is the designated exclusive collective-bargaining representative of the Respondent's employees in an appropriate unit, over the terms of a collective-bargaining agreement covering unit employees. The appropriate bargaining unit consists of:

All full-time and regular part-time drivers and warehousemen employed by Respondent at its 701 Ashland Avenue, Folcroft, Pennsylvania location, excluding all other employees, guards and supervisors as defined in the Act.

(b) Refusing to meet with the Union to negotiate a collective-bargaining agreement unless the Union removed two of its designated representatives from the meeting, and failing and refusing to bargain with the

Union over the effects on unit employees of the loss of Respondent's contract to provide freight delivery services from its Folcroft, Pennsylvania facility.

(c) Interrogating employees about their union activities, and threatening to discharge employees if they do not withdraw their support from the Union.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the unit employees regarding the employees' terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement, and over the effects on unit employees of the Respondent's loss of its contract to provide freight delivery services from its Folcroft, Pennsylvania facility.

(b) Post at its facility in Folcroft, Pennsylvania, copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to bargain with Teamsters Local Union No. 115, a/w International Brotherhood of Teamsters, AFL-CIO, which is the designated exclusive collective-bargaining representative of the Respondent's employees in an appropriate unit, over the terms of a collective-bargaining agreement covering unit employees. The appropriate bargaining unit consists of:

All full-time and regular part-time drivers and warehousemen employed by us at our 701 Ashland Avenue, Folcroft, Pennsylvania location, excluding all other employees, guards and supervisors as defined in the Act.

WE WILL NOT condition our meeting with the Union to negotiate a collective-bargaining agreement on the Union's removal of two of its designated representatives from the meeting, and WE WILL NOT refuse to bargain with the Union over the effects on unit employees of the loss of our contract to provide freight delivery services from our Folcroft, Pennsylvania facility.

WE WILL NOT interrogate employees about their union activities or threaten to discharge employees if they do not withdraw their support from the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain collectively and in good faith with the Union over the unit employees' terms and conditions of employment and, if an understanding is reached, embody that understanding in a signed agreement, and WE WILL bargain with the Union over the effects on unit employees of the loss of our contract to provide freight delivery services from our Folcroft, Pennsylvania facility.

WAYNE SYSTEMS, INC.